

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT MICKENS,)	
)	
Petitioner,)	
)	
vs.)	Case No. 2:12-cv-1039
)	
MICHAEL W. HARLOW;)	District Judge Mark R. Hornak
SUPERINTENDENT; and THE)	
ATTORNEY GENERAL OF THE)	
COMMONWEALTH OF)	
PENNSYLVANIA,)	
)	
Respondents.)	

MEMORANDUM ORDER

On July 25, 2012, the above captioned case was initiated by the filing of a Motion for Leave to Proceed *in forma pauperis* accompanied by a Petition for Writ of Habeas Corpus (ECF No. 1) and was referred to a united states magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges.

The magistrate judge filed a Report and Recommendation on July 31, 2012 (ECF No. 4) recommending that the Petition for Writ of Habeas Corpus be dismissed pre-service as a successive 2254 petition for which the Petitioner has not demonstrated the necessary certification from the Court of Appeals for the Third Circuit as required under 28 U.S.C. § 2244(b)(3). On August 6, 2012, Petitioner filed a Supplement, which the Court will construe as objections to the Report and Recommendation. Petitioner's objections do not undermine the recommendation of the magistrate judge.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections thereto, the following order is entered:

AND NOW, this 30th day of August, 2012:

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is **DISMISSED** as a successive 2254 petition for which the Petitioner has not demonstrated the necessary certification from the Court of Appeals for the Third Circuit as required under 28 U.S.C. § 2244(b)(3).

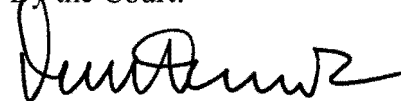
IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 4) is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:



Mark R. Hornak
United States District Judge

Robert Mickens
CT-7015
SCI Albion
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Albion, PA 16475-0002